

Dealers, real estate and the art market

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The anti-money laundering regime was originally designed for financial intermediaries. Money can also be laundered through the purchase of goods, real estate and works of art, and the Financial Action Task Force has repeatedly drawn attention to these sectors. Since 2016, Swiss law has subjected dealers in goods to due diligence duties when they accept more than one hundred thousand francs in cash in a commercial transaction. Dealers who wish to avoid these duties can require payment through a bank, which then performs the checks. The reform package discussed in connection with the transparency of legal entities provided for a lower threshold for certain sectors, among them precious metals and real estate.¹

Real estate has long been regarded as a sector with particular risks, because it allows large amounts to be invested in a stable asset whose value is difficult to verify. In Switzerland, the purchase of real estate was not as such subject to the Anti-Money Laundering Act. Due diligence was performed only by the banks that financed the purchase or transferred the purchase price. The national risk assessments of the Swiss authorities identified this gap. The reform package addressed it by extending certain duties to the advisers involved in real estate transactions, a matter considered further in the next section.²

The art market deserves particular mention in a book on Basel, since the city hosts Art Basel, founded in 1970 by Basel gallerists and today one of the most important art fairs in the world. The art market has characteristics that make it vulnerable to abuse: high prices, subjective valuations, a tradition of discretion about buyers and sellers, and the use of agents and intermediaries. Works of art can also be stored for long periods in free ports and bonded warehouses, where they change hands without leaving the premises. Nothing in this observation implies wrongdoing by any particular fair, gallery or collector. It describes structural risks that the industry itself has recognised.³

Switzerland has responded to these risks in several ways. Since 2016, operators of free ports and customs warehouses must keep inventories that identify the depositors and the goods stored. The Basel Institute on Governance published the Basel Art Trade Guidelines, which recommend due diligence on the provenance of works and the identity of the parties. Within the trade, a number of associations have adopted codes of conduct. Unlike the European Union, which has subjected art dealers to anti-money laundering duties above a transaction threshold, Swiss law has so far covered art dealers mainly through the general rules on dealers in goods and cash payments. Status to be verified.⁴

1 Notes

1. On the due diligence duties of dealers in goods accepting more than CHF 100,000 in cash (Art. 2 para. 1 lit. b and Art. 8a AMLA, in force since 1 January 2016) and the proposals in the reform package of 2024/2025 to lower the cash threshold for certain sectors, see SR 955.0 and the dispatch of the Federal Council. Thresholds and status to be verified. ↩
2. On the money laundering risks in the Swiss real estate sector identified in the national risk assessments of the Interdepartmental Coordinating Group on Combating Money Laundering and the Financing of Terrorism (CGMF), and the extension of due diligence duties to advisers in real estate transactions in the reform package, see the publications of the Federal Department of Finance. Status to be verified. ↩
3. On the foundation of Art Basel in 1970 by Basel gallerists (among them Ernst Beyeler, Trudl Bruckner and Balz Hilt) and the money laundering risks of the art market identified by the FATF and national authorities, see the publications of Art Basel and the FATF report on money laundering and terrorist financing in the art and antiquities market (2023). To be verified. ↩

4. On the inventory obligations for free ports and open customs warehouses under the revised Swiss customs legislation, the Basel Art Trade Guidelines of the Basel Institute on Governance (2012, revised 2018), and the coverage of art market participants under Directive (EU) 2018/843 (threshold of EUR 10,000), see the relevant sources. Status to be verified. ↩

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